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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
097061,568	04/16/98	WRIGHT	JJ1-43

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QM31/1210

EXAMINER	
JACKSON, S	
ART UNIT	PAPER NUMBER
3738	5

DATE MAILED: 12/10/98

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

Office Action Summary

Application No.
09/061,568

Applicant(s)
Carol Wright et al.

Examiner
Suzette Jackson

Group Art Unit
3738



☒ Responsive to communication(s) filed on Apr 16, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-3 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-3 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: A heading of Detailed Description should be added into the Specification. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

3. Claim 3 is rejected under 35 U.S.C. 102(e) as being anticipated by Orth et al. USPN 5,591,197.

Orth discloses the invention as claimed comprising a stent with struts and channel. See Figures 1-6b.

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Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable Tuch USPN 5,624,411 in view of Mische USPN 5,792,106. Tuch discloses a stent capable of delivering drugs, however Tuch does not teach reservoirs. Mische teaches a helical stent (noting Figure 8, element 70) in conjunction with a catheter; with reservoirs/openings (64) capable of delivering drugs to a treatment site in desired concentrations (col. 3, lines 36-37). It would have been obvious to one having ordinary skill in the art to take the invention of Tuch and incorporate the openings, pockets or reservoirs taught in Mische in order to allow for another means for releasing drugs to the injured lumen in regulated doses.

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Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tartaglia et al 5,700,286; Yan 5,843,172; Israel et al 5,843,120; "Microbial conversion of rapamycin, Enzyme and Microbial Technology 21:405-412, 1997; "Inhibitory Effects of Rapamycin on Intimal Hyperplasia After PTCA in Porcine Coronary Model JACC, February 1998; to see other closely related drugs and stents.

8. Any inquiry concerning this communication or earlier communication regarding this application should be directed to examiner Suzette Jackson at (703) 308-6516. If you are unable to reach me, please contact my supervisor, Mickey Yu, at (703) 308-2672. In a case requiring immediate assistance, please call (703) 308-0858 to reach the main operator for Sector 3700.



SJJ

3 December 1998



David H. Willse
Primary Examiner